IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 3699 of 2006(M)

PETITIONER:

M/S.SDF INDUSTRIES LTD.,
SDF HOUSE, 7/352, N.H.BYE PASS ROAD,
CHANDRA NAGAR, PALAKKAD DISTRICT, REPRESENTED BY
ITS LIASON OFFICER, SUNNY MATHEW.

BY ADV. SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

RESPONDENTS:
----

1. **CIRCLE INSPECTOR OF EXCISE,**
   SDF INDUSTRIES LTD., PAMPADY, THIRUVILWAMALA,
   THRISSUR DISTRICT.

2. **THE DEPUTY COMMISSIONER OF EXCISE,**
   CENTRAL ZONE, KOCHI.

3. **THE EXCISE COMMISSIONER,**
   THIRUVANANTHAPURAM.

4. **STATE OF KERALA, REPRESENTED BY**
   THE SECRETARY TO GOVERNMENT,
   TAXES(G) DEPARTMENT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.3699/2006 M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE LETTER DTD. 8/12/2000 FROM THE GOVERNMENT OF INDIA TO THE PETITIONER.

EXT.P2: COPY OF THE APPLICATION DTD. 26/12/2003 FILED BY THE PETITIONER.

EXT.P3: COPY OF THE APPLICATION DTD. 26/12/2003 FILED BY THE PETITIONER.

EXT.P4: COPY OF THE ORDER DTD. 29/09/1999 PASSED BY THE 4TH RESPONDENT.

EXT.P5: COPY OF THE ORDER DTD. 25/08/2005 PASSED BY THE 4TH RESPONDENT ACCORDING SANCTION TO THE UNITED DISTILLERIES, VENGALIPPARA.

EXT.P6: COPY OF THE ORDER DTD. 19/09/2005 PASSED BY THE 4TH RESPONDENT ACCORDING SANCTION TO THE DEVIKOLAM DISTILLERIES.

EXT.P7: COPY OF THE ORDER DTD. 8/06/2005 PASSED BY THE 4TH RESPONDENT ACCORDING SANCTION TO THE PALAKKAD DISTILLERIES.

EXT.P8: COPY OF THE ORDER DTD. 19/08/2004 PASSED BY THE 3RD RESPONDENT.

EXT.P9: COPY OF THE APPEAL DTD. 5/01/2005 FILED BY THE PETITIONER BEFORE 4TH RESPONDENT.

EXT.P10: COPY OF THE APPEAL DTD. 1/12/2005 FILED BY THE PETITIONER BEFORE 4TH RESPONDENT.

EXT.P11: COPY OF THE ORDER ISSUED BY THE 4TH RESPONDENT.

EXT.P12: COPY OF THE ORDER DTD. 11/08/2006 PASSED BY THE GOVERNMENT.

/TRUE COPY/

KSS

T.R. Ramachandran Nair, J.

- -

W.P.(C).NO.3699 of 2006-M

- -

Dated this the 21st day of March, 2007

JUDGMENT

The petitioner is a licensee under the Abkari Act and Rules and it has already established distillery for blending, bottling, etc. It is functioning from 1995 onwards. Subsequently in 2000 declared as a sick company. The petitioner even though is a sick company since the year 2000, it is stated that already there is a revival programme under the supervision of the State Bank of Travancore. The petitioner intends to increase the blending capacity of the distillery and also the warehousing capacity for storage, as without expansion there is no scope for revival. Accordingly, the petitioner submitted Exts.P2 and P3 applications seeking sanction for increasing the blending capacity and also warehousing capacity, before the third respondent.

2. The fourth respondent by Ext.P11, informed the petitioner that the request for enhancement of blending capacity cannot be considered and the same is rejected. The petitioner challenges Ext.P11 in this writ petition.

3. The respondents have filed a counter affidavit to support Ext.P11. A reading of Ext.P11 shows that it is a one line order and it is not a

reasoned one. No reasons are forthcoming as to why the same is rejected, which shows that there was no consideration of the same on merits. Counsel for the petitioner submits that even though several reasons have been pointed out in the counter affidavit to reject their applications including financial difficulties, according to him, if the petitioner was called upon to furnish additional materials, the petitioner could have submitted them. It is pointed out that Exts.P5, P6, P7 and P12 show that the Government has accorded sanction in respect of other applicants who approached the Government in similar circumstances.

4. Since Ext.P11 is not a reasoned order, the same is unsustainable and is therefore quashed. Respondents 3 and 4 are directed to consider Exts.P2 and P3 afresh with notice to the petitioner, on their merits. Final orders will be passed within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of in the above terms.

(T.R. Ramachandran Nair, Judge.)

kav/